

Translation

PATENT COOPERATION TREATY

PCT/FR2003/003430



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 04430	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/003430	International filing date (day/month/year) 19 novembre 2003 (19.11.2003)	Priority date (day/month/year) 29 novembre 2002 (29.11.2002)
International Patent Classification (IPC) or national classification and IPC H04Q 7/22, H04L 12/56		
Applicant ORANGE FRANCE		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>5</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 23 juin 2004 (23.06.2004)	Date of completion of this report 07 March 2005 (07.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-3, 5-15, as originally filed
 pages _____, filed with the demand
 pages 4, 4a, filed with the letter of 23 February 2005 (23.02.2005)
- ☒ the claims:
 pages _____, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1-7, filed with the letter of 23 February 2005 (23.02.2005)
- ☒ the drawings:
 pages 1/1, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 1-7

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-7
are so unclear that no meaningful opinion could be formed (*specify*):

See separate sheet

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

Supplemental Box
(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III.

1. Some of the terms used in independent claims 1 and 7 have a relative meaning that is not well established and recognised. The terms in question are as follows:
 - "architecture dedicated to a network" (normally to be construed as referring to a particular structure associated with the network), and
 - "managing said dedicated architecture" (the management functions to be performed and the manner in which a terminal device might manage the architecture, i.e. the structure, of a network, are not clear), and
 - "managing at least one condition of said link to said network" (since the link has been defined in relation to a connection rather than a dedicated architecture, it is not clear how a dedicated architecture manager can also manage the link, or what such a condition of the link to be managed might be).

Therefore, these terms cast doubt on the meaning of the technical features to which they refer. It follows that the subject matter of independent claims 1 and 8 has not been clearly defined (PCT Article 6).

2. Furthermore, the wording of the characterising part of independent claims 1 and 7 ("manager ... for managing at least one dedicated architecture ... and ... managing at least one condition of said link to said network") merely amounts to stating the basic

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(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III.

problem solved by the invention ("overcoming the disadvantages of existing systems by managing the various dedicated architectures of a single terminal", in accordance with page 4, lines 4-9), and does not provide the technical features necessary for achieving this result (how such management is made possible and what the technical features thereof are), i.e. for arriving at a solution to the problem. Consequently, independent claims 1 and 7 fail to comply with the requirements of PCT Article 6 in so far as the subject matter for which protection is sought has not been clearly defined.

3. It appears from the description that the following features are required for a clear definition of the terms and expressions affected by the above-mentioned problems of clarity, meaning that they are *technical features essential* for the definition of the invention:

(i) the system and method claimed relate to the selection of access to a communication network from a set of communication networks *each offering a range of services* (page 1, lines 3-7);

(ii) said selection involves selecting *the name identifying a communication network that a user wishes to access from a list of names identifying a plurality of communication networks in said set* (page 7, lines 13-22);

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(To be used when the space in any of the preceding boxes is not sufficient)

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(iii) the dedicated architecture associated with the link referred to as "PDP context" enables access by the terminal to the communication network connected as a result of the selection (page 8, lines 15-17 and 28-30), and can use resources in the terminal in accordance with the transmission characteristics of the selected communication network (network interface);

(iv) "managing" includes the functions of generating, editing, suspending or closing the dedicated architecture manager in order to assign, modify, suspend or close, respectively, the transmissions and resources associated with the transmission characteristics for access to the selected communication network via the "PDP context" link (page 10, line 22 to page 15, line 2).

Since independent claims 1 and 7 do not contain all of these features, they fail to comply with the requirements of PCT Article 6 in combination with PCT Rule 6.3(b), according to which an independent claim must contain all of the technical features essential for the definition of the invention.

4. Furthermore, the subject matter of the present claims 2 and 4 to 6 has been defined in terms of both device and method features, meaning that the category of said claims is not clear (PCT

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Guidelines, 5.31) (PCT Article 6).

In this connection, the functional features ("selected by", "control", "coupled") used to define physical entities ("selection means", "dedicated architecture manager"), such as the parts of the system that match said claims, should have been expressed in the form of device features (means "for ..." or "arranged to ..." carry out a function when certain conditions have been met; for example, "said selection means can select the management function, whereafter the dedicated architecture manager can control ...", etc.).

Any claim must include only those features that are consistent with its category (device or method). Therefore, the present mixture of features in different categories casts doubt on the category of claims 2 and 4 to 6.

5. In the light of the objections raised above in relation to clarity, no detailed examination of the application has been possible with regard to novelty and inventive step.
6. However, a general opinion can be formed on the basis of the application as a whole, with reference to the following documents:

D1: WO 02/30056 A (OPUSWAVE NETWORKS INC) 11 April
2002 (2002-04-11)

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D2: WO 02/01822 A (ENSUQUE GUILHEM; WIRELESS LOGIN
AB (SE); LANTTO JOERGEN (SE)) 3 January 2002
(2002-01-03)

D3: WO 02/09451 A (LUNG DANNY S H; ERICSSON TELEFON
AB L M (SE); LORD MARTIN (US); HA) 31 January
2002 (2002-01-31)

- 6.1 The essential features in independent claims 1 and 7 (separate management of different PDP contexts for access by a terminal to the communication networks providing services via a mobile network fitted with a GPRS system, depending on a selection made by the terminal user and according to the dedicated architecture defining network access features on the basis of the selected service parameters) have already been described in each of documents D1 to D3 (see the passages cited in the international search report), or would be considered obvious by a person skilled in the art who is aware of the teachings of said documents and applies the general knowledge of a technical expert.

Specifically, the presence of a selection means built into the user interface of the terminal to enable one of the communication networks to be selected is considered to be implicit in the teachings of D1 relating to the establishment of a so-called "PDP context" link for transmitting data packets between the terminal and one of the networks associated with the application selected

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in the terminal. Even if a selection means of this type were not considered to be implicit in D1, it would be obvious for a person skilled in the art to provide such a means when the function of selecting one of the communication networks by the terminal is desired.

It follows that the subject matter of independent claims 1 and 7 is not considered to involve an inventive step (PCT Article 33(1) and (3)).

6.2 The same objection is also applicable to the features added to claim 1 by independent claims 2 to 6.

6.3 The features which have not been claimed (the management and selection of various service classes, the separate management of the operation of each of the dedicated architectures) cannot be taken into consideration in the examination of inventive step.

7. The following document is one of "certain published documents" as defined in PCT Rule 64.3 and has therefore been cited below in accordance with PCT Rule 70.10.

Application no.: WO-A-03 107601

Publication date: 24 December 2003

Filing date: 13 June 2003

Priority date: 17 June 2002

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Given that this document discloses a system and a method that appear to be identical to those of the present application, it may be relevant to the assessment of novelty and inventive step in the regional/national phase before certain elected offices, subject to the specific provisions of such offices (as would be the case, e.g., of the EPO applying the provisions of EPC Article 54(3) for the assessment of novelty).

8. Independent claims 1 and 7 have been drafted in two parts. However, the features described in one of documents D1 to D3, and particularly in D1, in combination with the features set forth in the preamble (for example the connection via a "PDP context" link, the selection means, and the management of the dedicated architectures) should not have been included in the characterising part (PCT Rule 6.3(b)).